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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, vs. JOSE AVILEZ (D1), ROBERTO GUZMAN (D2), and JESUS CASTILLO (D3).	Magistrate's Case Number: '08 MJ 2284 COMPLAINT FOR VIOLATION OF: Title 21, United States Code Section(s) 952 and 960 – Importation of a Controlled Substance (Felony)

The undersigned complainant being duly sworn states:

That on or about July 26, 2008, within the District of California, defendants JOSE AVILEZ (D1), ROBERTO GUZMAN (D2), and JESUS CASTILLO (D3), did knowingly and intentionally import and bring into the United States from Mexico, 100 kilograms and more of marijuana; to wit, approximately 482.80 Kg of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof; in violation of Title 21, United States Code, Sections 952 and 960.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Signature of Complainant
Special Agent, Niraj Malhotra
U.S. Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence this 26th day of July 2008.

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, Special Agent (SA) Niraj Malhotra, declare under penalty of perjury, the following is true and correct:

On July 26, 2008, at approximately 3:25 a.m., Customs and Border Protection (CBP) Agents on a marked CBP vessel received information from a Coast Guard helicopter unit that a Panga vessel was hovering at coordinates 32.48N, 117.36 W near La Jolla, California. The marked CBP vessel approached the Panga, and from 50 yards only one occupant was visible. This was the driver, later identified as Jose AVILEZ. When the CBP unit came closer and AVILEZ noticed the marked CBP vessel, he attempted to flee. The Panga sped away and was engaged in erratic maneuvers on the water. Ultimately, CBP Agents disabled the Panga's engine by firing two disabling rounds into the engine. Once stopped, the Panga was found to have three persons on the vessel: Jose AVILEZ, Roberto GUZMAN, and Jesus CASTILLO. A search of the Panga revealed approximately 482.80 Kg of a leafy-green substance. A sample of this substance field-tested positive for marijuana.

The three men were arrested and interviewed by Immigration and Customs Enforcement (ICE) Special Agents. Post-Miranda, AVILEZ admitted to having knowledge of the marijuana on the Panga and that he anticipated that he would be paid for smuggling the marijuana into the U.S. from Mexico. He further stated that he was given a cell phone and an instrument device for finding coordinates by an unknown Mexican male with long hair. He was also given possession of the Panga at the Coronado Islands in Mexico. He was told to drive the Panga for two hours in a straight line according to the instrument device and he would reach a beach. Someone would be waiting for him at this location and would call the cell phone he was given before he reached shore. He was also told to throw the cell phone in the water if he was caught. He admitted to throwing the cell phone into the water.

Post-Miranda, GUZMAN denied initial knowledge of the marijuana on the Panga but admitted to discovering it while on the boat. He said that by that time it was too late to exit the boat. He also said that he wanted nothing to do with the smuggling venture.

CASTILLO was not interviewed due to his incoherent state.

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AVILEZ, GUZMAN, and CASTILLO were arrested and charged with violation of Title 21 USC 952, 960, Importation of a Controlled Substance. GUZMAN was booked into the Metropolitan Correction Center, San Diego, CA. AVILEZ and CASTILLO were taken to Alvarado hospital for evaluation.

Executed on July 26, 2008 at

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Special Agent Niraj Malhotra
Immigration & Customs
Enforcement (ICE)

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on July 26, 2008, in violation of Title 21, United States Code, Section(s) 952 & 960.

______________________________ ____________________

United States Magistrate Judge Date/Time

AVILEZ, GUZMAN, and CASTILLO were arrested and charged with violation of Title 21 USC 952, 960, Importation of a Controlled Substance. GUZMAN was booked into the Metropolitan Correction Center, San Diego, CA. AVILEZ and CASTILLO were taken to Alvarado hospital for evaluation.

Executed on July 26, 2008 at 9:16pm

Special Agent Niraj Malhotra
Immigration & Customs
Enforcement (ICE)

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on July 26, 2008, in violation of Title 21, United States Code, Section(s) 952 & 960.

United States Magistrate Judge

7/26/08 - 845PM
Date/Time